

EX-IM BANK DIRECT LOANS AND GUARANTEES PROGRAM GUIDELINES FOR LETTERS OF INTEREST

Introduction

A Letter of Interest (LI) is an indication of financing terms Ex-Im Bank is prepared to consider based on a limited review of the transaction. A Preliminary Commitment (PC) is a preliminary offer of financing terms based on a credit evaluation and policy review. A Final Commitment (AP) is an authorization of Ex-Im Bank financing.

These Program Guidelines for LIs describe general Ex-Im Bank policies applicable to Medium-Term and Long-Term Direct Loans and Guarantees which the U.S. exporter and the foreign buyer should consider in structuring the export transaction. A Direct Loan is an extension of credit by Ex-Im Bank to a foreign borrower. A Guarantee is repayment protection for an extension of credit by a private lender to a foreign borrower (a "Guaranteed Loan"). Ex-Im Bank's support of a Guaranteed Loan may be either a comprehensive guarantee (covering all risks) or a political risk guarantee (covering the risks defined in Ex-Im Bank's Political Risk Guarantee Agreement). Ex-Im Bank's guarantee commits the full faith and credit of the U.S. Government and covers all of the principal and regular interest on the Guaranteed Loan.

The terms of Ex-Im Bank support for Direct Loans and Guaranteed Loans are consistent with the Organization for Economic Cooperation and Development Arrangement on Guidelines for Officially Supported Export Credits (the "OECD Arrangement"). The OECD Arrangement sets the standards for the basic terms and conditions of export credits, provides procedures for notifying, matching, and consulting on offers of exceptional financing, and describes criteria for the use of tied aid.

Ex-Im Bank Export Credit Insurance is available for transactions requiring Ex-Im Bank coverage of no more than \$10 million and an amortization period no longer than five years. The Program Guidelines for Export Credit Insurance differ in some respects from those applicable to Direct Loans and Guarantees. Contact Business Development (202-565-3900), one of Ex-Im Bank's regional offices, or your insurance broker for more information about Export Credit Insurance.

Section I: Financing Considerations

1.01 Credit Risk

If the Term Sheet attached to this LI identifies a Guarantor, Ex-Im Bank will require that the specified Guarantor agree to guarantee repayment of the Direct Loan or Guaranteed Loan. If the Guarantor line in the Term Sheet refers to this section of the Program Guidelines, Ex-Im Bank will evaluate the credit risk of the Borrower at the time of a PC or AP application. If the credit risk of the Borrower is acceptable, Ex-Im Bank will not require a Guarantor. In the event Ex-Im Bank determines that a Guarantor is necessary, Ex-Im Bank will generally require a sovereign guarantee for a public non-sovereign Borrower or a guarantee from a creditworthy financial institution for a private sector Borrower.

Beginning 60 days after the date of authorization of an AP, the Commitment Fee specified in the Term Sheet for this LI accrues on the undisbursed and uncanceled portion of the Direct Loan or Guaranteed Loan, and is payable on each scheduled payment date.

1.03 Exposure Fee

The Exposure Fee is Ex-Im Bank's charge for accepting the credit risk of a transaction. The Exposure Fee charged for a particular transaction is determined by seven variables: the exposure fee level of the country, the percentage of cover, the "quality" of product provided, the length of the drawdown and repayment periods, whether the fee is financed or not and whether the fee is paid up front or as drawn, as described in the attached Exposure Fee Advice. The Exposure Fee is specified per \$100 of the Financed Portion disbursed and is payable upfront or at the time of each disbursement. Ex-Im Bank will finance the Exposure Fee if the applicant for the AP requests that it be financed in its entirety. The actual Exposure Fee will be determined by Ex-Im Bank at the time of issuance of a PC or AP in accordance with the procedures described in the Advice. Exposure Fees may be obtained at Ex-Im Bank's Web site at <http://www.exim.gov/feecalc.html>.

1.04 Interest Rate

1.041 Direct Loan

The interest rate on a Direct Loan (the "Ex-Im Bank Lending Rate") is the rate which is the lower of: (i) a 100-basis point spread over the applicable Base Treasury Rate in effect on the date Ex-Im Bank receives a complete application for an AP; or (ii) if a PC has been issued and a complete AP application is submitted to Ex-Im Bank on or before the PC expiry date, the rate, if any, specified in the PC. (A PC is available only for certain types of transactions, as described in "*How to Apply for Ex-Im Bank Financing*".) The applicable Base Treasury Rate is determined on the basis of the repayment term of the Direct Loan, as follows:

<u>Loan Repayment Term</u>	<u>Base Treasury Rate</u>
Up to Five Years	Three Year Maturities
Over Five to 8-1/2 Years	Five Year Maturities
Over 8-1/2 Years	Seven Year Maturities

The Base Treasury Rates are subject to change on the 15th of each month and are based on the average Treasury rates for the preceding month.

1.042 Guaranteed Loan

The interest rate on a Guaranteed Loan is a rate negotiated among the Borrower, Guarantor, if any, and the guaranteed lender. The rate may be fixed or floating.

1.05 Repayment Terms

1.051 Principal Repayment Starting Point

Repayment of principal generally begins six months after the Exporter's contractual responsibility is concluded. In most single shipment transactions, this means that principal repayment begins six months after delivery or installation of the Items. For projects involving the installation of multiple units, either multiple starting points (one for each repayment tranche) or an average starting point is used. If the Exporter has a contractual role in completing a project, principal repayment will generally start six months after the project's physical readiness for operation. Ex-Im Bank will determine the appropriate starting point at the time of issuance of a PC or AP.

1.052 Principal Repayment Term

The repayment term or term range referenced in the Term Sheet reflects the size and nature of the export contract and is in accordance with the OECD Arrangement. In the case of a repayment term range, Ex-Im Bank will specify the term at the time of issuance of a PC or AP and will provide at least the minimum term in the range. Ex-Im Bank will consider matching a repayment term longer than the term referenced in this LI, if such a term is offered by another export credit agency (ECA). For additional information concerning principal repayment terms refer to the Ex-Im Bank's Standard Repayment Terms Fact Sheet.

If the LI Letter references section **1.06** and a repayment term range is referenced in the Term Sheet, Ex-Im Bank is prepared to offer in a PC or AP the maximum term in the range after Ex-Im Bank notifies the term to other ECAs.

1.053 Total Term Limitation

If the LI Letter references this section of the Program Guidelines, Ex-Im Bank support is generally not available in the Borrower's country for a total term exceeding seven years. The total term is the time from the AP authorization date until the final repayment date of the Direct Loan or Guaranteed Loan. For transactions subject to this limitation, the maximum repayment term is usually five years. Ex-Im Bank will, however, consider support for a repayment term longer than five years if the Borrower or Guarantor, if any, qualifies as described in the Exposure Fee Advice. Ex-Im Bank will determine the appropriate repayment term at the time of issuance of a PC or AP.

1.06 Environmental Exports Program

If the LI Letter references this section of the Program Guidelines, this transaction qualifies for consideration under Ex-Im Bank's Environmental Exports Program (EEP). A transaction supported by the EEP must involve the export of Items: (i) to be **specifically used** to produce beneficial environmental effects; or (ii) to be incorporated into a project **specifically dedicated** to producing beneficial environmental effects. Ex-Im Bank will offer enhanced financial support for qualified transactions, including: (i) support for Local Costs (costs within the scope of supply of the export contract that are incurred in the country of the End-user of the Items) in an amount not exceeding 15% of the Contract Price; and (ii) support for the capitalization of interest during construction on the Financed Portion. Section **1.052** includes information regarding the repayment term applicable to transactions that qualify for the EEP.

1.07 Engineering Multiplier Program

If the LI Letter references this section of the Program Guidelines, this transaction qualifies for consideration under Ex-Im Bank's Engineering Multiplier Program (EMP). A transaction supported by the EMP must involve the export of architectural, industrial design, or engineering services for a project with the potential of generating subsequent U.S. exports of at least \$10 million or double the Contract Price of the transaction, whichever is greater. For EMP transactions, Ex-Im Bank will offer enhanced financial support to cover Local Costs in an amount not exceeding the lesser of \$1.5 million or 15% of the Contract Price. If the project is subsequently implemented and Ex-Im Bank approves financing for related U.S. exports, Ex-Im Bank will allow the Borrower to roll the remaining balance of the EMP pre-construction loan into the Direct Loan or Guaranteed Loan for the project. Ex-Im Bank will not provide enhanced financial support for EMP transactions if the U.S. Trade and Development Agency (TDA) is prepared to fund the transaction. Ex-Im Bank will determine the availability of TDA support only in conjunction with a PC or AP application.

1.08 Local Cost Support: Matching a Foreign ECA

For transactions that do not qualify for Local Cost support under the EEP or EMP (see sections **1.06** and **1.07**), Ex-Im Bank will offer support for Local Costs in an amount not exceeding 15% of the Contract Price, provided that: (i) the signed export contract includes Local Costs equal to at least the

requested amount of Local Cost support in the AP application; and (ii) Ex-Im Bank has proof that a foreign ECA has offered equivalent support for the same contract (**not** for a different contract for the same project). Such proof would normally include either: (i) a copy of the foreign ECA's offer of support for equivalent Local Costs; or (ii) confirmation of Local Cost support by a foreign ECA through Berne Union telex/fax channels. Ex-Im Bank will determine the appropriate amount of Local Cost support at the time of issuance of an AP.

1.09 Capitalization of Interest During Construction (CIDC): Matching a Foreign ECA

For transactions that do not qualify for CIDC support under the EEP (see section **1.06**), Ex-Im Bank will offer support for CIDC, provided that Ex-Im Bank has proof that a foreign ECA has offered equivalent support for the same contract (**not** for a different contract for the same project). Such proof would normally include either: (i) a copy of the foreign ECA's offer of support for CIDC; or (ii) confirmation of CIDC support by a foreign ECA through Berne Union telex/fax channels. Ex-Im Bank will determine the appropriate amount of CIDC support at the time of issuance of an AP.

1.10 Tied Aid Transactions

There are markets where many public sector infrastructure projects attract foreign official tied aid financing, and where the host government actively solicits such financing. Tied aid financing is characterized either by the mixture of a large grant with a standard export credit of up to 10 years in length, or by a credit with a repayment term of 20 to 30 years and an interest rate far lower than market rates. Tied aid financing is conducted on a government-to-government basis.

Should the authorities responsible for the procurement decision for your project provide indications that tied aid financing from another government is available, or should you receive other indications that a foreign government is considering offering tied aid for your project, we encourage you to contact Ex-Im Bank as soon as possible regarding potential use of our Tied Aid Capital Projects Fund.

Depending on the nature and conditionality of the foreign tied aid offer, Ex-Im Bank will consider offering one of several forms of counter offer -- a Willingness to Match Indication, a Tied Aid Letter of Interest, or a Tied Aid Preliminary Commitment -- each of which is designed to pre-empt or displace the foreign tied aid offer.

1.11 Lease Transactions

Ex-Im Bank will consider offering a guarantee when the contract between the Exporter and the Buyer is a finance or operating lease. The terms of Ex-Im Bank's support will generally depend on: (i) the degree to which the lease transfers the benefit and risks of ownership of the leased asset from the lessor to the lessee; and (ii) the relationship between the total principal portion of the lease payments and the cost of the asset to the lessor. Ex-Im Bank will quote terms for a guarantee related to a lease only in a PC or AP.

1.12 Currency of Direct Loan or Guaranteed Loan

Direct Loans and Guaranteed Loans are typically denominated in U.S. dollars. On a case-by-case basis, Ex-Im Bank will consider foreign currency guarantees for readily convertible currencies. Ex-Im Bank will indicate its willingness to offer a foreign currency guarantee only in a PC or AP.

1.13 LI Expiry Date

The terms of this LI are valid until the LI Expiry Date specified in the Term Sheet. The LI applicant may request a maximum of three six-month extensions of the LI Expiry Date which, if approved by Ex-Im Bank, would extend the validity of the LI for a total term of two years. The terms referenced in this LI, including any indicated interest rate and fees, may change if the LI Expiry Date is extended.

Section II: Eligibility of Goods and Services

2.01 Foreign Content Policy

The foreign content guidelines applicable to Long-Term transactions (those having a Financed Portion in excess of \$10 million **or** an amortization period in excess of seven years) follow an "item-by-item" approach. The guidelines for Medium-Term transactions (those having a Financed Portion of \$10 million or less **and** an amortization period of seven years or less) follow an "aggregate" approach. Ex-Im Bank has the exclusive right to determine what does and does not constitute an "Item", "U.S. Content", "Production Cost", and "Eligible Foreign Content", as defined below.

2.02 Foreign Content: Long-Term Parameters

2.021 Long-Term Eligibility

Foreign content guidelines for Long-Term transactions follow an "item-by-item" approach. Financial support is provided only with respect to those Items which meet Ex-Im Bank's eligibility criteria. For each Item of supply, the following two criteria must be met: (i) the Item must be shipped from the United States; and (ii) the foreign content (i.e., the cost of all of the foreign components incorporated into the Item) must be less than 50% of the total cost to produce the Item. The total cost to produce the Item, or the Item's "Production Cost", is the sum of: (i) direct material and component costs; (ii) direct labor costs; and (iii) indirect costs that can reasonably be attributed to the production of the Item.

2.022 Level of Support for Long-Term Items

For each eligible Item of supply, Ex-Im Bank will support the lesser of: (i) 100% of the U.S. Content of the Item; or (ii) 85% of the Contract Price (including the Eligible Foreign Content) of the Item. A cash payment of at least 15% of the Contract Price of the Item is required. The foreign content of an eligible Item is called the "Eligible Foreign Content", provided that, in the case of goods, it is incorporated into the Item in the United States. Local Costs do not qualify as Eligible Foreign Content. The "Contract Price" of the Item is the cost as it appears in the Supplier's invoice of the Item, and the "U.S. Content" of the Item is the Contract Price of the Item less the cost of Eligible Foreign Content of the Item.

2.03 Foreign Content: Medium-Term Parameters

2.031 Medium-Term Eligibility

Foreign content guidelines for Medium-Term transactions follow an "aggregate" approach that covers all Items provided by a particular Supplier which are contained in a single request for guarantee or disbursement. All such Items are eligible for Ex-Im Bank support only if the following two criteria are met: (i) the Items must be shipped from the United States; and (ii) the foreign content of all of the Items (i.e., the aggregate cost of all of the foreign components incorporated into the Items) must be less than 50% of the aggregate cost to produce the Items. The aggregate cost to produce the Items, or the Items' aggregate "Production Cost", is the sum of: (i) direct material and component costs; (ii) direct labor costs; and (iii) indirect costs that can reasonably be attributed to the production of the Items.

2.032 Level of Support for Medium-Term Items

For eligible Items of supply in a particular request for guarantee or disbursement, Ex-Im Bank will support the lesser of: (i) 100% of the aggregate U.S. Content of the Items; or (ii) 85% of the aggregate Contract Price (including Eligible Foreign Content) of the Items. A cash payment of at least 15% of the aggregate Contract Price of the Items is required. The foreign content of eligible Items is called the "Eligible Foreign Content", provided that, in the case of goods, it is incorporated into the Items in the United States. Local Costs do not qualify as Eligible Foreign Content. The aggregate "Contract Price" of the Items is the aggregate cost as it appears in the Supplier's invoice or invoices of the Items, and the aggregate "U.S. Content" of the Items is the aggregate Contract Price of the Items less the aggregate cost of Eligible Foreign Content of the Items.

2.04 Services

Services performed by U.S.-based personnel employed by a company doing business in the United

States constitute U.S. Content. Each defined task of a U.S. service contract constitutes an Item of supply. Eligible Foreign Content components of U.S. service contracts are limited to: (i) the costs of foreign-based personnel employed directly by the U.S. company; (ii) travel on non-U.S. carriers; and (iii) per diem or related expenses incurred outside of the United States.

2.05 Ancillary Service Fees

Ancillary services include banking, legal, financial advisor, and technical consultant (e.g., engineering, marketing, or environmental consultant) services related to the structuring, evaluation, and documentation of the financing for an export transaction.

2.06 Used Equipment

Some or all of the costs associated with the sale of used equipment may be eligible for Ex-Im Bank support. The financing term for used equipment may not exceed the remaining useful life of the equipment. The specific amount and terms of Ex-Im Bank support for used equipment are based on an evaluation of the related technical and financial risks. Ex-Im Bank will issue an LI for a transaction that includes used equipment, but will approve specific terms for used equipment only in conjunction with a PC or AP application.

2.07 Nuclear Transactions

If the LI Letter references this section of the Program Guidelines, Ex-Im Bank has determined, based on representations from the applicant, that the Items are not identified with the physical operations of any particular nuclear project or facility and are, therefore, eligible for an LI. Nuclear exports eligible for an LI include: (i) nuclear simulators designed for training purposes; (ii) environmental or radiation monitoring equipment not directly linked with the operations systems of a nuclear facility; and (iii) pre-project services such as feasibility studies or site evaluations.

The LI Letter will be considered **null and void** if the transaction involves the export of: (i) any Items to be used in the physical operation of a nuclear power plant or other nuclear facility; (ii) nuclear fuel; or (iii) reactors used for research or medical technology. Ex-Im Bank support for such transactions will be considered only in conjunction with a PC or AP application.

2.08 Military Transactions

Ex-Im Bank is prohibited by law, with limited exceptions, from financing defense articles and defense services. In defining what is a "defense article" or "defense service", Ex-Im Bank uses criteria based on the identity of the End-user, the nature of the Item, and the use to which it will be put. If the Items are sold to a military organization, they are considered to be defense articles until proven otherwise, and if the Items are designed primarily for military use, they are presumed to be a defense articles. Ex-Im Bank support for transactions involving the sale of Items to a military or defense entity can be provided only for those transactions which qualify under one of the following categories of limited exceptions:

- 1) **Humanitarian items** related to lifesaving, health, and medical purposes such as hospital equipment, medical laboratory equipment, ambulances, fire engines, and rescue aircraft are not considered to be military, even if sold to a military buyer.
- 2) **Small marine vessels and aircraft used for coast guard/border patrol**, as well as activities such as drug interdiction, natural resource monitoring, and rescue or lifesaving services related to international shipping, may be eligible even though sold to military entities and used primarily for routine patrol activities.
- 3) If the Item has **"dual use"** (both military and commercial or civilian applications), it is eligible if there exists convincing evidence that the Item is nonlethal in nature, the Item will be used

primarily for civilian activities, and the Buyer or End-user provides a certification to that effect. Specifically, Ex-Im Bank's investigation must indicate that: (i) the End-user has a legitimate civilian requirement which the dual-use Item will meet; (ii) the primary motivation for the purchase appears to be based on the civilian requirement; and (iii) the primary use for the Item by the intended customer will be civilian in nature.

4) Under the **Anti-Drug Abuse Act of 1988**, as amended, if Ex-Im Bank determines that an Item constitutes a defense article and is therefore ineligible for support, a limited waiver of the statutory prohibition against Ex-Im Bank assistance in financing the sale of such defense articles may be obtained. Under this "anti-narcotics" provision, if the Item in question is on the U.S. Munitions List and a "Presidential Determination of National Interest" is obtained (through a request from the host government directed to the U.S. State Department) which concludes that the Item is to be used primarily for drug interdiction purposes, then Ex-Im Bank may provide guarantee or insurance support for the defense article.

If the LI Letter references this section of the Program Guidelines, Ex-Im Bank has determined that there exists a reasonable probability, based on representations from the applicant, that the Items will eventually be considered eligible in accordance with the criteria set forth above. However, a **final determination** of eligibility by Ex-Im Bank can only be obtained in conjunction with a PC or AP application. Hence, this transaction may be determined to constitute a military sale, thereby making it ineligible for Ex-Im Bank support even though Ex-Im Bank previously issued an LI for the transaction.

2.09 Transportation

2.091 Shipping Requirements

Items financed under a Medium-Term or Long-Term Direct Loan or a Long-Term Guaranteed Loan and transported by ocean vessel must be shipped in vessels of U.S. registry, except to the extent that a waiver of this requirement is obtained from the U.S. Maritime Administration ("MARAD"). "Medium-Term" and "Long-Term" are defined in section **2.01**. At the time of an AP application, the Borrower should address a request for a MARAD waiver to the Director, Office of Market Development, Room 7209, Maritime Administration, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, with a copy to Ex-Im Bank.

2.092 Financing of Transportation Costs

Except as otherwise provided below with respect to ocean freight for certain shipments of Items to Brazil, the cost of ocean or air freight for shipment of an Item on vessels or aircraft of non-U.S. registry is considered to be Eligible Foreign Content if it is included in the Contract Price of the Item. If such freight cost is for the use of vessels or aircraft of U.S. registry, the cost is considered U.S. Content. The cost of ocean freight for shipment of an Item to Brazil on vessels registered in Brazil will be treated as U.S. Content if: (i) such freight cost is included in the Contract Price of the Item; and (ii) the Borrower has obtained a waiver of shipment on vessels of U.S. registry from MARAD.

2.10 Insurance

The Borrower must obtain insurance against marine and transit hazards on all shipments of the Items financed under the Direct Loan or the Guaranteed Loan. The insurance must be in an amount not less than the amount of the disbursements to be made under the Direct Loan or the Guaranteed Loan with respect to such shipments. U.S. insurers should be given a non-discriminatory opportunity to bid for such insurance business related to the Items. If the premiums for such insurance with respect to the Items are paid in U.S. dollars under policies of insurance payable in U.S. dollars and placed with U.S. companies in the United States, they will be considered as part of the U.S. Content of the Items. All other premiums will be considered as part of the Eligible Foreign Content of the Items.

2.11 Earliest Shipment Date

Ex-Im Bank will consider for support only Items which are otherwise eligible and shipped no earlier than 60 days before the date Ex-Im Bank receives a complete AP application.

2.12 Export Contracts

The contracts for the sale of the Items to be financed under a Direct Loan or a Guaranteed Loan must be submitted to Ex-Im Bank at the time of application for an AP. The export contracts must be satisfactory to Ex-Im Bank and shall not violate any applicable law.

Section III: Other Policy Considerations

3.01 Need for Ex-Im Bank

Ex-Im Bank supports transactions when at least one of the following two conditions exists: (i) there is a lack of adequate financing available from other sources, such as commercial banks or the capital markets; and (ii) a foreign ECA is offering financing support on behalf of a foreign exporter which is competing with a U.S. exporter for the same transaction. At the time of application for a PC or AP, Ex-Im Bank must make a positive determination that at least one of these conditions applies.

3.02 Co-financing with Other U.S. Government Agencies

In transactions where Ex-Im Bank is participating in a project with other U.S. government agencies, the joint financial support will be reviewed at the time of a PC or AP application for compliance with the guidelines of the OECD Arrangement. If this LI references this section of the Program Guidelines, the applicant has indicated (or Ex-Im Bank is otherwise aware) that a U.S. government agency besides Ex-Im Bank has been asked to support this export transaction or a related project. The LI Letter will be considered **null and void** if another U.S. government agency offers a grant in an amount that exceeds the lesser of \$1 million or 3% of the export contract value.

3.03 Environmental Impact

Ex-Im Bank will issue a PC or AP only after considering the potential environmental effects of the project or products financed by the Direct Loan or Guaranteed Loan, and may withhold support based upon adverse environmental impact. For Long-Term transactions, refer to the applicable Annex to the Program Guidelines for the environmental information which Ex-Im Bank will require with a PC or AP application.

3.04 Economic Impact

Ex-Im Bank is prohibited by law from extending support for a transaction that would have a net negative impact on U.S. production. Ex-Im Bank procedures for complying with the law call for particular attention to large transactions: (i) which establish or expand foreign production of an exportable good that would directly compete with and displace U.S. production; (ii) where Ex-Im Bank has a significant role in allowing the project to proceed; and (iii) where the foreign expansion is large enough to cause substantial injury to U.S. industry. For transactions where all three of the conditions are met, the economic benefits of the transaction must be shown to outweigh the potential injury. Ex-Im Bank evaluates potential adverse economic impact only in conjunction with a PC or AP application.

In addition, for all transactions, Ex-Im Bank investigates whether the foreign buyer has been sanctioned (specifically, dumping its product in the United States or benefitting from unfair subsidies as determined by the U.S. Department of Commerce and the International Trade Commission). If the U.S. Government has sanctioned the foreign buyer for either dumping its product in the U.S. market or unfairly subsidizing its product, the presumption is that Ex-Im Bank financing would not be available to the foreign buyer for U.S. exports associated with the manufacture of the product for which the foreign buyer has been sanctioned.

3.05 Related Participants

Ex-Im Bank generally offers only political risk coverage for a Guaranteed Loan if a corporate affiliation exists between participants in a transaction and one participant (e.g., the Exporter or guaranteed lender) holds effective financial control over another participant (e.g., the Buyer or Borrower). However, Ex-Im Bank will consider offering a Direct Loan or a Guaranteed Loan with comprehensive coverage if it can be demonstrated at the time of a PC or AP application that the Buyer is able to purchase competing non-U.S. items and obtain a direct loan or comprehensive guarantee or insurance coverage from an ECA.

3.06 Defaults

Ex-Im Bank may suspend issuance of all LIs, PCs, and APs, processing of all amendments and legal documentation, and operative declarations for all borrowers and guarantors in arrears to Ex-Im Bank, at the sole discretion of Ex-Im Bank. In addition, Ex-Im Bank **may cancel** this LI and limit any future activity with the Borrower or Guarantor if it is in default. If the LI Letter references this section of the Program Guidelines, Ex-Im Bank is aware of a payment default involving the Borrower and/or Guarantor. Ex-Im Bank **will not convert** this LI to an AP unless the default is resolved to Ex-Im Bank's satisfaction.

3.07 Credit Experience

In deciding whether support will be available for the transaction, Ex-Im Bank will take into account its credit experience with the Exporter, Supplier, Buyer, Borrower, Guarantor (if any), guaranteed lender (if any), and any other participants identified in an AP application.

3.08 Suspension and Debarment

As a U.S. government agency, Ex-Im Bank is subject to the Federal "Suspension and Debarment" rules. These rules provide that an agency or department of the U.S. government may determine that a person or entity should be prevented from participating in government programs where that person or entity has, or is believed to have, violated certain laws or engaged in certain behavior which indicates a lack of responsibility, honesty or integrity. These rules have government wide effect and, therefore, a party that has been suspended or debarred by another agency or department may be prevented from being a borrower, insured, supplier or exporter under Ex-Im Bank's loan, guarantee and insurance programs. Since the rules provide for certain exceptions, Ex-Im Bank must evaluate each case in which suspension or debarment is an issue in order to determine whether Ex-Im Bank is prohibited from participating in the transaction.

As a general matter, Ex-Im Bank will not issue a PC or AP for a transaction in which the applicant, exporter, supplier, or borrower is suspended, debarred, proposed for debarment, voluntarily excluded, or otherwise ineligible to participate in U.S. government programs.

3.09 Small Economies

If the LI Letter references this section of the Program Guidelines, the transaction involves a country designated by Ex-Im Bank as a "small economy". In such cases, Ex-Im Bank will evaluate the net impact of the transaction on the country's foreign exchange and/or tax resources. The evaluation will determine whether or not Ex-Im Bank support is available and, if so, the appropriate Exposure Fee. Ex-Im Bank will perform this evaluation only in conjunction with a PC or AP application.

3.10 Letter of Credit Caps

Ex-Im Bank may impose a cap on the amount available for drawing under any letters of credit related to Direct Loans and Guaranteed Loans, if Ex-Im Bank determines that the credit risk of a transaction

warrants such action. Ex-Im Bank will consider caps only for the "highest risk" transactions (e.g., transactions involving risk sharing and exceptions to Ex-Im Bank cover policy). Caps on letters of credit are determined by Ex-Im Bank, in consultation with the Exporter, at the time of an AP application.

3.11 Host Country Pre-Clearance

If the LI Letter references this section of the Program Guidelines, Ex-Im Bank will require that the appropriate authorities of the government of the Borrower's country provide Ex-Im Bank with confirmation of the host government's support for this transaction. The confirmation must be received by Ex-Im Bank before Ex-Im Bank will consider a PC or AP application.

3.12 Anti-lobbying Prohibition

Under a law (31 U.S.C. 1352) which took effect on December 23, 1989, recipients of federal loans, grants, contracts and cooperative agreements are prohibited from spending federally-appropriated funds to influence or lobby certain U.S. government employees, including Ex-Im Bank employees, in connection with the granting of those federal awards. The law also requires a declaration and disclosure of any expenditures made for lobbying or influencing U.S. government employees in connection with the granting of those federal awards, as well as in connection with insurance and loan guarantees. Declarations and disclosures are to be made by applicants for APs and recipients of the Ex-Im Bank support, as well as certain exporters and suppliers. The law does not apply to foreign governments. The reporting requirements of the law do not apply to transactions in which the Direct Loan or Guaranteed Loan is less than \$150,000. Copies of all appropriate Declarations and Disclosure Forms will be provided by Ex-Im Bank. Applicants for Ex-Im Bank programs must complete and return the forms to Ex-Im Bank before Ex-Im Bank will consider an application for an AP. Recipients under Ex-Im Bank programs, who are not required to file at the time of application, will be required to complete and return the appropriate forms before Ex-Im Bank will enter into a loan or guarantee agreement for the transaction.

3.13 Guarantee Documentation

If an AP for a Guarantee is requested, Ex-Im Bank will require that the guaranteed lender have an operative Master Guarantee Agreement with Ex-Im Bank before Ex-Im Bank will approve an AP.

3.14 Specialized Transaction Structures

Although closed for certain routine trade finance transactions, Ex-Im Bank will consider structured financing arrangements such as limited recourse financing, asset-based aircraft transactions, or other structured finance transactions that offer a reasonable assurance of repayment, including reliable access to adequate foreign exchange. Participants seeking specialized transaction structures should be aware that such structures may, depending upon their size and complexity, incur additional costs for outside legal counsel, expanded documentation processing, financial advisors, security trustee fees, or other services.

3.15 Legal Prohibitions

As an agency of the U.S. government, Ex-Im Bank is subject to requirements that may prohibit it from supporting otherwise creditworthy transactions. We are not aware at this time of any that may affect our ability to support the transaction. Please note, however, that despite issuance of this LI, Ex-Im Bank's support of the transaction will still be subject to all of Ex-Im Bank's legal requirements in effect at the time. If you have any questions about the legal status of the transaction, please contact Ex-Im Bank.

3.16 Direct Loans

When Ex-Im Bank extends a Direct Loan, Ex-Im Bank enters into a loan agreement, including

promissory note(s), with the borrower. The utilization procedures are detailed in an annex to the loan agreement. Exports financed under a Direct Loan that are transported by ocean vessel must be shipped in vessels of U.S. registry, unless the foreign buyer obtains a waiver of this requirement from the U.S. Maritime Administration. Generally, the borrower requests that a commercial bank (L/C bank) in the United States which is acceptable to Ex-Im Bank and which has in place a Letter of Credit Agreement with Ex-Im Bank issue or advise letters of credit (L/C) in favor the exporter(s). The L/C bank pays the exporter when presented with the documents specified in the letter of credit incorporating Ex-Im Bank's requirements. Ex-Im Bank reimburses the L/C bank for Ex-Im Bank's share of such payments. L/C charges imposed by the L/C bank are to be paid by the exporter(s) or buyer, as agreed upon with the L/C bank.